

Before the
Federal Communications Commission
Washington, DC 20554

2001 NOV 15 A 8: 55

In the Matter of)	
)	
Request for Review of the)	RECEIVED
Decision of the)	
Universal Service Administrator by)	
)	
Pediatric Library, Rainbow Babies &)	
Children's Hospital)	NEC.471.12-27-99.03200022
Cleveland, Ohio)	
)	
Mundelein Elementary Schools)	NEC.471.12-20-9902900028
Mundelein, Illinois)	
)	
St. John the Baptist School)	File No. SLD-176702
Green Bay, Wisconsin)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21✓
National Exchange Carrier Association, Inc.)	

ORDER**Adopted: November 13, 2001****Released: November 14, 2001**

By the Common Carrier Bureau:

1. Before the Common Carrier Bureau are Requests for Review from Pediatric Library, Rainbow Babies & Children's Hospital (Pediatric Library), Mundelein Elementary Schools (Mundelein), and St. John the Baptist School (St. John) (collectively "Applicants"), seeking review of decisions of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ The Applicants seek review of SLD's decision to reject their Funding Year 3 applications for discounts under the schools and libraries

¹ Letter from Thomas W. Hayes, Pediatric Library, Rainbow Babies & Children's Hospital, to Federal Communications Commission, filed June 21, 2000 (Pediatric Library Request for Review); Letter from Jane Gallagher, St. John the Baptist School, to Federal Communications Commission, filed June 26, 2000 (St. John Request for Review); Letter from Dr. Ray Partridge, Mundelein Elementary Schools, to Federal Communications Commission, filed July 3, 2000 (Mundelein Request for Review).

universal service support mechanism for failure to satisfy the minimum processing standards.² For the reasons discussed, we grant each Request for Review and remand these applications to SLD for further consideration.

2. Under the universal service support mechanism for schools and libraries, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.³ The Administrator must post the FCC Form 470 on its website, and the applicant is required to wait 28 days before making a commitment with a selected service provider. Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁶ The Commission's rules allow the Administrator to implement an internal filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.⁷ Such applications are typically referred to as "in-window" applications. Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.⁸ It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window.

3. At the start of an application review, SLD utilizes what it calls "minimum processing standards" to facilitate the efficient review of the thousands of applications requesting funding.⁹ These minimum processing standards require an applicant to provide at least the basic data necessary for SLD to initiate review of the application under statutory requirements and Commission rules. When an applicant submits an FCC Form 471, SLD performs an initial

² Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ 47 C.F.R. §§ 54.504(b)(1), (b)(3).

⁵ 47 C.F.R. §§ 54.504(b)(3) and (4); § 54.511.

⁶ 47 C.F.R. § 54.504(c).

⁷ 47 C.F.R. § 54.507(c).

⁸ 47 C.F.R. § 54.507(g).

⁹ 47 C.F.R. § 54.504(c); see SLD website, Form 471 Minimum Processing Standards and Filing Requirements for FY 3, <<http://www.sl.universalservice.org/reference/471mps.asp>>. (*Minimum Processing Standards*).

visual inspection of the application to determine if the application has omitted an item required by the minimum processing standards. In such a case, SLD automatically returns the application to the applicant without considering the application for discounts under the program.¹⁰ Both the minimum processing standards and the automatic return for failure to comply are explained in a document available on SLD's website, from SLD's fax-on-demand service, and from SLD customer services representatives at its toll-free number.¹¹

4. If an application is rejected for failure to meet minimum processing standards, the applicant can submit a corrected application. However, the complete corrected application must be received by SLD within the filing window for the application to be treated as an in-window application. If the applicant fails to submit a corrected application within the window, the applicant will be subject to different funding priorities and may not receive any funding if there are insufficient funds remaining to satisfy demand by out-of-window applicants.

5. The filing window for Funding Year 3 opened on November 10, 1999, and closed on January 19, 2000.¹² Because applicants requested discounts in excess of the program funding cap during the Year 3 filing window, SLD considered only those applications filed during the window pursuant to the Commission's funding priority rules.¹³ Thus, where applicants learned of a minimum processing standards rejection only after the filing window, any reapplication for discounts was necessarily too late to receive funding.

6. In each of the pending cases, the original application was rejected for failure to satisfy the minimum processing standards which require that for each funding request submitted, the applicant must specify the FCC Form 470 that supports that funding request.¹⁴ An FCC Form 470 is identified by a 15-digit Application Number (known prior to Funding Year 3 as the

¹⁰ *Minimum Processing Standards.*

¹¹ *Minimum Processing Standards.*

¹² See SLD website, SLD Announces Availability of New Forms, <<http://www.sl.universalservice.org/whatsnew/101999.asp>>.

¹³ SLD website, SLD President Announces First Funding Wave for Year 3, <<http://www.sl.universalservice.org/whatsnew/042000.asp>>; see 47 C.F.R. § 54.507(g). The Commission's funding priority rules for applications submitted during the filing window provide that, for all discount categories, requests for telecommunications services and for Internet access shall receive first priority for the available funding while requests for installation of internal connections and other nonrecurring costs receive lower priority. To the extent that funds are not available to provide discounts to all internal connections, the Commission's rules prioritize support for schools and libraries receiving the highest discount and proceeding downward; in other words, the most disadvantaged entities receive the highest priority.

¹⁴ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Thomas W. Hayes, Pediatric Library, Rainbow Babies & Children's Hospital, dated February 17, 2000 (Pediatric Library Rejection Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jane Gallagher, St. John the Baptist School, dated February 17, 2000 (St. John Rejection Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Ray Partridge, Mundelein Elementary School District 75, dated February 17, 2000 (Mundelein Rejection Letter).

Universal Service Control Number) assigned by SLD.¹⁵ In the cases before us, SLD issued rejection letters on February 17, 2000, notifying each applicant that it did not meet minimum processing standards because it had failed to specify FCC Form 470 Application Numbers for its funding requests.¹⁶ Soon thereafter, each applicant submitted corrected FCC Form 471s, but each was informed in a postcard from SLD that its application “was received . . . after the 2000-2001 filing window closed” and that “[i]t has not yet been determined whether late-filed Form 471 applications will be considered for discount funding.”¹⁷ Applicants then appealed to SLD.¹⁸ SLD denied the appeals, treating them as requests for waiver of the filing window deadline, and stating that Commission rules do not permit SLD to consider such requests.¹⁹

7. The Applicants then submitted the pending Requests for Review to the Commission. In their Requests for Review, the applicants state that waivers should be granted because the fact that SLD did not reject their original application until February 17, 2000 made it impossible for them to file the corrected application by January 19, 2000.²⁰ In addition, Mundelein seeks reversal of the rejection of its original application, arguing that it did not miss the filing window because its original application was filed before the end of the window.²¹

8. Because the pending Requests for Review seek relief from an application processing procedure, we have reviewed the relevant procedure in detail as well as the application record in each of the pending cases. Based on this review, we find that SLD, which rejected the pending applications for failing to provide an FCC Form 470 number, did not apply this minimum processing standard consistently. In light of this inconsistency, we conclude that the rejection of these applications for failing this standard should be reversed, and we therefore grant each Request for Review and remand for further consideration of the original applications. Because we direct SLD to reconsider the timely filed applications, we need not consider whether to grant a waiver of the filing window for the filing of the corrected applications.

¹⁵ Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (September 1999), at 19 (FCC Form 471 Instructions).

¹⁶ Pediatric Rejection Letter, at 1; St. John Rejection Letter, at 1; Mundelein Rejection Letter, at 1.

¹⁷ St. John Request for Review, attachment.

¹⁸ Letter from Jane Gallagher, St. John the Baptist School, to Schools and Libraries Division, Universal Service Administrative Company, filed March 13, 2000; Letter from Thomas W. Hayes, Pediatric Library, Rainbow Babies & Children's Hospital, to Schools and Libraries Division, Universal Service Administrative Company, filed March 16, 2000; Letter from Dr. Ray Partridge, Mundelein Elementary Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed March 27, 2000.

¹⁹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jane Gallagher, St. John the Baptist School, dated June 16, 2000; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Thomas W. Hayes, Rainbow Babies & Children's Hospital, Pediatric Library, dated June 16, 2000; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Dr. Ray Partridge, Mundelein Elementary School District 75, dated June 20, 2000.

²⁰ See, e.g., St. John the Baptist Request for Review, at 1.

²¹ Mundelein Request for Review, at 1.

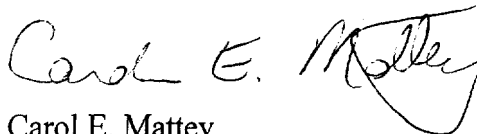
9. SLD, in performing its minimum processing visual inspection, will reject an application immediately if, in connection with a funding request, the applicant failed to enter any FCC Form 470 number or else entered a number with 2 or more digits missing, *i.e.*, a number with fewer than 14 digits. However, if the applicant enters a number with only 14 digits or a complete 15-digit number that does not correspond to an actual FCC Form 470, SLD will not reject the application immediately. Instead, it will contact the applicant and attempt to identify the FCC Form 470 that the funding request relies upon. We find that there is insufficient distinction between these two classes of applicants to provide a reasonable basis for the difference in treatment. It is not likely to be more difficult to obtain a correct FCC Form 470 number in cases where the number was omitted than in those cases where 14 digits were entered. We therefore find that SLD should not have rejected the original applications filed by the Applicants without providing them the same opportunity to supply the omitted FCC Form 470 numbers that is given to those applicants that fill in a 14-digit or erroneous 15-digit number. We therefore reverse SLD's rejection of applications with USCN numbers that were missing or contained fewer than 14 digits and remand for further processing of the original applications consistent with the way that SLD processed applications with 14 or more digits. Our decision today does not prohibit SLD from establishing minimum processing standards relating to FCC Form 470 Application Numbers in the future. Our decision is directed only at the consistent treatment of applications under the minimum processing standards.

10. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by Pediatric Library, Rainbow Babies & Children's Hospital Ballard Community School District, Cleveland, Ohio, on June 21, 2000 IS GRANTED, and this application is REMANDED for further processing.

11. IT IS FURTHER ORDERED that the Request for Review filed by St. John the Baptist School, Green Bay, Wisconsin, on June 26, 2000 IS GRANTED, and this application is REMANDED for further processing.

12. IT IS FURTHER ORDERED that the Request for Review filed by Mundelein Elementary Schools, Mundelein, Illinois, on July 3, 2000 IS GRANTED, and this application is REMANDED for further processing.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey
Deputy Chief, Common Carrier Bureau